

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
EMPERY ASSET MASTER LTD., et al., :
Plaintiffs, : 20 Civ. 6993 (LGS)
:
-against- : **ORDER**
:
HEALTHLYNKED CORP., :
Defendant. :
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LORNA G. SCHOFIELD, District Judge:

WHEREAS, Defendant filed a Notice of Removal on August 28, 2020, (Dkt. No. 1) and removed this action from State Court pursuant to the Court's diversity jurisdiction.

WHEREAS, a Notice of Removal should allege the citizenship of the parties both at the time of the commencement of the action, and at the time of the Notice of Removal. "The general rule is when, as in this case, diversity is the sole basis for asserting removal jurisdiction, diversity must exist both at the time the original action is filed in state court and at the time removal is sought to federal court." *Adrian Family Partners I, L.P. v. ExxonMobil Corp.*, 79 Fed. Appx. 489, 491 (2d Cir. 2003); *see also United Food & Commercial Workers Union, Local 919 v. CenterMark Properties Meriden Square, Inc.*, 30 F.3d 298, 301 (2d Cir. 1994).

WHEREAS, "[f]or the purposes of diversity jurisdiction, a partnership takes the citizenship of all of its partners." *Platinum-Montaur Life Scis., LLC v. Navidea Biopharmaceuticals, Inc.*, 943 F.3d 613, 615 (2d Cir. 2019).

WHEREAS, a corporation "shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business." 28 U.S.C. § 1332(c)(1).

WHEREAS, the Notice of Removal fails to allege the time during which Defendant was

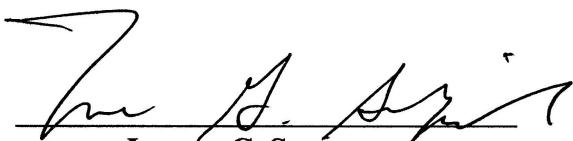
a citizen of Nevada and Florida.

WHEREAS, the Notice of Removal fails to allege the principal place of business of Plaintiff Empery Asset Master Ltd. and the citizenships of the partners of Plaintiffs Empery Tax Efficient, LP and Empery Tax Efficient II LP, both at the time of the commencement of the action and at the time of the Notice of Removal. It is hereby

ORDERED that the matter is summarily remanded to state court. Defendant's Notice of Removal is procedurally defective. Pursuant to section 1447(c), the Clerk of Court is respectfully directed to mail a certified copy of this Opinion and Order to the Supreme Court of the State of New York, New York County. The Clerk of Court is further directed to close the case.

SO ORDERED.

Dated: September 14, 2020
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE